

SENATE BILL No. 542

DIGEST OF INTRODUCED BILL

Citations Affected: IC 9-30.

Synopsis: Ignition interlock devices. Changes the requirements and lengths of time for which a court must order probationary driving privileges subject to the condition that a person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device. Requires a person who is granted probationary driving privileges subject to the condition that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device to pay all costs associated with the installation of an ignition interlock device. Requires a person convicted of certain operating while intoxicated offenses to be imprisoned for at least five days or to perform at least 180 hours of community restitution or service. Requires an ignition interlock device manufacturer to submit monthly reports of device failures to the bureau of motor vehicles.

Effective: July 1, 2009.

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January 15, 2009, read first time and referred to Committee on Judiciary.

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Introduced

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

SENATE BILL No. 542

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 9-30-5-10, AS AMENDED BY P.L.126-2008,
2 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2009]: Sec. 10. (a) In addition to a criminal penalty imposed
4 for an offense under this chapter or IC 14-15-8, the court shall, after
5 reviewing the person's bureau driving record and other relevant
6 evidence, recommend the suspension of the person's driving privileges
7 for the fixed period of time specified under this section. The court may
8 require that a period of suspension recommended under this section be
9 imposed, if applicable, before a period of incarceration or after a period
10 of incarceration, or both before and after a period of incarceration, as
11 long as the suspension otherwise complies with the periods established
12 in this section.

13 (b) If the court finds that the person:
14 (1) does not have a previous conviction of operating a vehicle or
15 a motorboat while intoxicated; or
16 (2) has a previous conviction of operating a vehicle or a
17 motorboat while intoxicated that occurred at least ten (10) years



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before the conviction under consideration by the court;
 the court shall recommend the suspension of the person's driving
 privileges for at least ninety (90) days but not more than two (2) years.
**The court may stay the execution of the part of the suspension that
 exceeds the minimum period of suspension and grant the person
 probationary driving privileges for a period equal to the length of
 the stay. If the court grants probationary driving privileges under
 this subsection, the court shall order that the probationary driving
 privileges include the requirement that the person may not operate
 a motor vehicle unless the motor vehicle is equipped with a
 functioning certified ignition interlock device under IC 9-30-8.**

(c) If the court finds that the person has a previous conviction of
 operating a vehicle or a motorboat while intoxicated and the previous
 conviction occurred more than five (5) years but less than ten (10)
 years before the conviction under consideration by the court, the court
 shall recommend the suspension of the person's driving privileges for
 at least ~~one hundred eighty (180)~~ **forty-five (45)** days but not more
 than two (2) years. ~~The court may stay the execution of that part of the~~
~~suspension that exceeds the minimum period of suspension and grant~~
~~the person probationary driving privileges for a period of time equal to~~
~~the length of the stay. At the completion of the suspension, the court~~
shall grant the person probationary driving privileges with the
requirement that the person may not operate a motor vehicle
unless the motor vehicle is equipped with a functioning certified
ignition interlock device under IC 9-30-8 for at least six (6) months.

(d) If the court finds that the person:

(1) has a previous conviction of operating a vehicle or a
 motorboat while intoxicated and the previous conviction occurred
 less than five (5) years before the conviction under consideration
 by the court; **or**

(2) violated subsection (b);

the court shall recommend the suspension of the person's driving
 privileges for at least **forty-five (45) days. At the completion of the**
suspension, the court shall grant the person probationary driving
privileges with the requirement that the person may not operate a
motor vehicle unless the motor vehicle is equipped with a
functioning certified ignition interlock device under IC 9-30-8 for
at least one (1) year but not more than ~~two (2)~~ three (3) years. The
~~the court grants probationary driving privileges under this subsection;~~
 the court may stay the execution of that part of the suspension that exceeds
 the minimum period of suspension and grant the person probationary
 driving privileges for a period of time equal to the length of the stay. If
 the court grants probationary driving privileges under this subsection;

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the court shall order that the probationary driving privileges include the requirement that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. However, the court may grant probationary driving privileges under this subsection without requiring the installation of an ignition interlock device if the person is successfully participating in a court supervised alcohol treatment program in which the person is taking disulfiram or a similar substance that the court determines is effective in treating alcohol abuse. The person granted probationary driving privileges under this subsection shall pay all costs associated with the installation of an ignition interlock device unless the sentencing court determines that the person is indigent.

(e) If the conviction under consideration by the court is for an offense under:

- (1) section 4 of this chapter;
- (2) section 5 of this chapter;
- (3) IC 14-15-8-8(b); or
- (4) IC 14-15-8-8(c);

the court shall recommend the suspension of the person's driving privileges for at least two (2) years but not more than five (5) years.

(f) If the conviction under consideration by the court is for an offense involving the use of a controlled substance listed in schedule I, II, III, IV, or V of IC 35-48-2, in which a vehicle was used in the offense, the court shall recommend the suspension or revocation of the person's driving privileges for at least six (6) months.

(g) If a person is granted probationary driving privileges under subsection (b), (c), or (d) subject to the condition that the person may not operate a motor vehicle unless the motor vehicle is equipped with a functioning certified ignition interlock device, the person shall pay all costs associated with the installation of an ignition interlock device in the person's motor vehicle unless the sentencing court determines that the person is indigent.

SECTION 2. IC 9-30-5-11, AS AMENDED BY P.L.153-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) If a court grants a person probationary driving privileges under section **10 or** 12 of this chapter, the person may operate a vehicle only as follows:

- (1) To and from the person's place of employment.
- (2) For specific purposes in exceptional circumstances.
- (3) To and from a court-ordered treatment program.

(b) If the court grants the person probationary driving privileges under section 12(a) of this chapter, that part of the court's order

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granting probationary driving privileges does not take effect until the person's driving privileges have been suspended for at least thirty (30) days under IC 9-30-6-9.

(c) (b) The court shall notify a person who is granted probationary driving privileges of the following:

(1) That the probationary driving period commences when the bureau issues the probationary license.

(2) That the bureau may not issue a probationary license until the bureau receives a reinstatement fee from the person, if applicable, and the person otherwise qualifies for a license.

SECTION 3. IC 9-30-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) If:

(1) a court recommends suspension of a person's driving privileges under section 10(b) of this chapter for an offense committed under this chapter; and

(2) the person did not refuse to submit to a chemical test offered under IC 9-30-6-2 during the investigation of the offense;

the court may stay the execution of the suspension of the person's driving privileges and grant the person probationary driving privileges for one hundred eighty (180) days.

(b) An order for probationary privileges must be issued in accordance with sections 11 and 13 of this chapter.

(c) (a) If:

(1) a court recommends suspension of a person's driving privileges under section 10(c), 10(d), or 10(e) of this chapter for an offense committed under this chapter; and

(2) the period of suspension recommended by the court exceeds the minimum permissible fixed period of suspension specified under section 10 of this chapter;

the court may stay the execution of that part of the suspension that exceeds the minimum fixed period of suspension and grant the person probationary driving privileges for a period of time equal to the length of the stay.

(d) (b) In addition to the other requirements of this section, if a person's driving privileges are suspended or revoked under section 10(f) of this chapter, a court must find that compelling circumstances warrant the issuance of probationary driving privileges.

(e) (c) Before a court may grant probationary driving privileges under this section, the person to whom the probationary driving privileges will be granted must meet the burden of proving eligibility to receive probationary driving privileges.

(d) If the court grants probationary privileges for an offense

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1 committed under this chapter with the requirement that the person
 2 may not operate a motor vehicle unless the motor vehicle is
 3 equipped with a functioning certified ignition interlock device, the
 4 probationary license must comply with IC 9-30-8-5.

5 SECTION 4. IC 9-30-5-15 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) In addition to
 7 any criminal penalty imposed for an offense under this chapter, the
 8 court shall:

9 (1) order:

10 (A) that the person be imprisoned for at least five (5) days; or

11 (B) the person to perform at least one hundred eighty (180)
 12 hours of community restitution or service; and

13 (2) order the person to receive an assessment of the person's
 14 degree of alcohol and drug abuse and, if appropriate, to
 15 successfully complete an alcohol or drug abuse treatment
 16 program, including an alcohol deterrent program if the person
 17 suffers from alcohol abuse;

18 if the person has one (1) previous conviction of operating while
 19 intoxicated **or if the person has violated section 1(b) of this chapter.**

20 (b) In addition to any criminal penalty imposed for an offense under
 21 this chapter, the court shall:

22 (1) order:

23 (A) that the person be imprisoned for at least ten (10) days; or

24 (B) the person to perform at least three hundred sixty (360)
 25 hours of community restitution or service; and

26 (2) order the person to receive an assessment of the person's
 27 degree of alcohol and drug abuse and, if appropriate, to
 28 successfully complete an alcohol or drug abuse treatment
 29 program, including an alcohol deterrent program if the person
 30 suffers from alcohol abuse;

31 if the person has at least two (2) previous convictions of operating
 32 while intoxicated.

33 (c) Notwithstanding IC 35-50-2-2 and IC 35-50-3-1, a sentence
 34 imposed under this section may not be suspended. The court may
 35 require that the person serve the term of imprisonment in an
 36 appropriate facility at whatever time or intervals (consecutive or
 37 intermittent) determined appropriate by the court. However:

38 (1) at least forty-eight (48) hours of the sentence must be served
 39 consecutively; and

40 (2) the entire sentence must be served within six (6) months after
 41 the date of sentencing.

42 (d) Notwithstanding IC 35-50-6, a person does not earn credit time

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while serving a sentence imposed under this section.

SECTION 5. IC 9-30-5-16, AS AMENDED BY P.L.172-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 16. (a) Except as provided in subsections (b) and (c) and section 10 of this chapter, the court may, in granting probationary driving privileges under this chapter, also order that the probationary driving privileges include the requirement that a person may not operate a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8.

(b) An order granting probationary driving privileges

(1) under

(A) section 12(a) of this chapter if the person has a previous conviction that occurred at least ten (10) years before the conviction under consideration by the court; or

(B) section 12(c) of this chapter; or

(2) to a person who has a prior unrelated conviction for an offense under this chapter of which the consumption of alcohol is an element;

must prohibit the person from operating a motor vehicle unless the vehicle is equipped with a functioning certified ignition interlock device under IC 9-30-8. However, a court is not required to order the installation of an ignition interlock device for a person described in subdivision (1) or (2) if the person is successfully participating in a court supervised alcohol treatment program in which the person is taking disulfiram or a similar substance that the court determines is effective in treating alcohol abuse.

(c) A court may not order the installation of an ignition interlock device on a vehicle operated by an employee to whom any of the following apply:

(1) Has been convicted of violating section 1 or 2 of this chapter.

(2) Is employed as the operator of a vehicle owned, leased, or provided by the employee's employer.

(3) Is subject to a labor agreement that prohibits an employee who is convicted of an alcohol related offense from operating the employer's vehicle.

SECTION 6. IC 9-30-8-1, AS AMENDED BY P.L.172-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) If a court orders the installation of a certified ignition interlock device under IC 9-30-5 on a motor vehicle that a person whose license is restricted owns or expects to operate, except as provided in subsection (b), the court shall set the time that the installation must remain in effect. However, the term may not exceed

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1 the maximum term of imprisonment the court could have imposed. The
2 person shall pay the cost of installation unless the sentencing court
3 determines that the person is indigent.

4 (b) If the court orders installation of a certified ignition interlock
5 device under **IC 9-30-5-10(c) or** IC 9-30-5-10(d), the installation must
6 remain in effect for a period of six (6) months.

7 SECTION 7. IC 9-30-8-4 IS AMENDED TO READ AS FOLLOWS
8 [EFFECTIVE JULY 1, 2009]: Sec. 4. **(a)** The calibration and **monthly**
9 maintenance of an ignition interlock device that is mandated by a court
10 is the responsibility of the manufacturer.

11 **(b) The manufacturer shall submit monthly reports of failures**
12 **recorded on ignition interlock devices to the bureau not later than**
13 **seven (7) days after collecting the report.**

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